

REMARKS

Claims 1-8, 12, 14 and 15 are pending in the application and all stand rejected. By this amendment, independent claims 1 and 4 are amended, and claim 9 has been cancelled. Claims 1 and 4 are the only independent claims. More specifically, claims 1 and 4 have been amended to distinguish over the cited prior art to Sutton in view of Thomas et al., in concurrence with the telephone discussion with the Examiner of December 7, 2004, to define a device having a first plate portion in spaced relation to the second plate portion to form a substantially right angle about a central point of from 60 degrees to 85 degrees.

Claims 1-9, 12 and 14-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 4,788,893 (Sutton) in view of United States Patent No. 5,337,632 (Thomas et al.). More specifically, the Examiner alleges that both Sutton and Thomas et al. teach a door opening angled device made of metal or plastic and having a hole at one end for a key ring or chain to be attached thereto. The Examiner further alleges that Sutton teaches an angled device having substantially equal parts and having an angle therebetween of 45-85 degrees. In addition, the Examiner alleges that Thomas et al. teaches an angled device having a constant width, and that it would have been obvious to one of ordinary skill in the art to provide a constant width to the Sutton device as taught by Thomas et al.

In response to the Examiner's objections, revised independent claims 1 and 4 are now being provided. The Applicant also advises that claim 9 has been cancelled.

The Applicant submits that the cited references fail to disclose all of the essential features of the present invention, as now defined in amended independent claims 1 and 4 now being submitted. In order to clarify the distinctions of the present invention from the disclosures of the applied references, and with a view to overcoming the Examiner's rejection, the Applicant offers the following comments.

With respect to United States Patent No. 4,788,893 (Sutton), the Applicant submits that, with reference to Figure 1 of Sutton, the Sutton reference is directed to opening door handles (with a view to avoiding broken nails and such), and, as such, cannot be considered as being of a similar nature to the present invention. More specifically, in operation the device disclosed in Sutton is meant to be placed under a door handle and then lifted upwardly so as to assist in opening the door handle. Furthermore, while the Applicant agrees with the Examiner's assertion that Sutton teaches an angled device having substantially equal parts and having an angle therebetween of 45 degrees, the Applicant respectfully disagrees with the Examiner's contention that Sutton teaches an angled device having an angle therebetween beyond this range which also includes the claimed range of 60-85 degrees, as defined in amended claims 1 and 4 submitted herewith.

In support of this, the Applicant notes that Sutton clearly indicates, on column 2 at lines 54-56, that, "...the four bumps 12 on hinge 10 function to LIMIT the opening of the hinge 10 to approximately 45 degrees. The Applicant notes that, for the purpose envisioned by the device disclosed in Sutton, this is adequate because the device described in Sutton is not meant to be

biased between the car door frame and the door to pry a frozen door open, it is merely to grasp the underside of a door handle and be lifted upwardly to manipulate the door handle in opening the door. As such, any increase in the angulature of the angled portions beyond 45 degrees may result in the device slipping when trying to engage the underside of a door handle.

By contrast, the present invention, as defined in the amended claims submitted herewith, is directed to a device having a first plate portion in spaced relation to the second plate portion to form a substantially right angle about a central point of from 60 degrees to 85 degrees. The Applicant notes that Sutton teaches away from such a structure. By virtue of this manner of construction, when the user inserts the first plate portion for placement in a frame opening between the door frame and the door, and the second plate portion is then pushed in a first direction by the user towards an upper surface of the door frame, the upper surface of the first plate portion engages a lip of the door and, as a result of the angled relationship between the first and second plate portions, the device pivots about the central point, whereby an outer edge of the central point biases within the frame opening, allowing the user to apply moderate leverage to the device and effect the first plate portion to pivot upwardly, about the central point, from the placement between the door frame and the door, and force the car door away from an adjacent relationship with the door frame so as to separate and break the frozen or stiff seal formed between the door and the door frame. This is completely absent from the device described in Sutton, and the Applicant respectfully submits that amended independent claims 1 and 4 are distinguishable from the device disclosed in Sutton, and, moreover, would not at all be obvious from anything provided in Sutton.

With respect to United States Patent No. 5,337,632 (Thomas et al.) the Applicant submits that the Thomas et al. reference is directed to opening beverage can tops or door handles (with a view to avoiding broken nails and such), and, as such, cannot be considered as being of a similar nature to the present invention, for all of the above reasons given with respect to differentiating the present invention from Sutton. For example, Thomas et al., clearly indicates, on column 3 at line 55, that the hook is "curved away from the handle portion at approximately 180 degrees". By contrast, the present invention, as defined in the amended claims submitted herewith, is directed to a device having a first plate portion in spaced relation to the second plate portion to form a substantially right angle about a central point of from 60 degrees to 85 degrees. This is completely absent from the device described in Thomas et al., and the Applicant respectfully submits that amended independent claims 1 and 4 are distinguishable from the device disclosed in Thomas et al., and, moreover, would not at all be obvious from anything provided in Thomas et al.

The Applicant respectfully submits that the above arguments are sufficient to distinguish the present invention from the cited prior art, and reconsideration of the matter is accordingly requested.

All dependent claims are patentable over the prior art cited for at least the same reasons as those provided for the independent claims from which the dependent claims depend.

CONCLUSION

Based on the preceding arguments, Applicant respectfully believes that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicant invites the Examiner to contact Applicant's representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 19-0513.

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Respectfully submitted



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